

REMARKS/ARGUMENTS

Claims 1-26 are pending. Claims 1 and 19-21 are currently amended to remove a non-limiting preamble pursuant to M.P.E.P. 2111.02, Part II.¹ Claims 25 and 26 are added. New claim 25 finds support in original claims 14 and 16. New claim 26 finds support in original claim 15 and the specification: page 5, line 18. No new matter has been entered.

To address the provisional non-statutory obviousness-type double patenting rejection over U.S. Application No. 10/529,902, Applicants submit herewith a Terminal Disclaimer² in compliance with 37 C.F.R. §1.321(c), disclaiming the terminal part of any patent granted on the above-captioned application, which would extend beyond the expiration date of the full statutory term as presently shortened by any terminal disclaimer of any patent issuing from U.S. Application No. 10/529,902. BASF AKTIENGESELLSCHAFT, is the owner of the entire right, title and interest in and to the invention claimed and disclosed in the above-captioned patent application by virtue of assignment, said Assignment being filed on October 4, 2005. Accordingly, Applicants believe that this ground of rejection is no longer at issue and should be withdrawn. Acknowledgement to this effect is requested.

¹ *Catalina Mktg. Int'l v. Coolsavings.com, Inc.*, 289 F.3d at 808-09, 62 USPQ2d at 1785 ("[C]lear reliance on the preamble during prosecution to distinguish the claimed invention from the prior art transforms the preamble into a claim limitation because such reliance indicates use of the preamble to define, in part, the claimed invention...Without such reliance, however, a preamble generally is not limiting when the claim body describes a structurally complete invention such that deletion of the preamble phrase does not affect the structure or steps of the claimed invention." Consequently, "preamble language merely extolling benefits or features of the claimed invention does not limit the claim scope without clear reliance on those benefits or features as patentably significant."). Emphasis added.

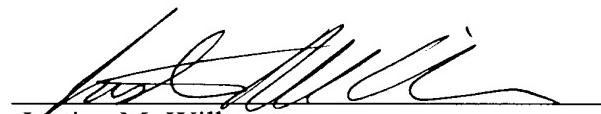
² Applicants submit that the filing of said terminal disclaimer to obviate the rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. See *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991), where the court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

Application No. 10/529,901
Reply to Office Action of May 2, 2008

Applicant submits that the application is now ready for allowance, and early notification of such action is earnestly solicited.

Respectfully submitted,

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